

FILED

OCT 12 2018

Clerk, U.S. District Court  
District Of Montana  
Missoula

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH WAYNE WATERS,

Defendant.

CR 18-12-BU-DLC

ORDER

Before the Court is Defendant Joseph Wayne Waters's unopposed motion to quash the writ of habeas corpus ad prosequendum issued by the Montana Fourth Judicial District Court. (Doc. 28.)

Waters argues that a state court cannot order that a defendant in federal custody pursuant to a federal writ be transferred to state custody. The Court recently addressed this issue in *United States v. Darcy Lee Segal*, 9:17-cr-12, 2017 WL 3707389 (D. Mont. Aug. 28, 2017). Here, as in *Segal*, the Court agrees that the Supremacy Clause nullifies the state writ. See U.S. Const. art. IV, cl. 2; *Ableman v. Booth*, 62 U.S. 506, 523–24 (1858).

Accordingly, IT IS ORDERED that

- (1) the motion (Doc. 28) is GRANTED;
- (2) the Writ of Habeas Corpus ad Prosequendum issued on September 28, 2018 by the Montana Fourth Judicial District Court, Missoula County, upon the Defendant Joseph Wayne Waters is declared null and void;
- (3) the state actors, including the Fourth Judicial District Court and the Missoula County Attorneys' Office, are enjoined from executing the State of Montana Writ of Habeas Corpus ad Prosequendum issued on September 28, 2018; and
- (4) following the conclusion and final disposition of this federal case, Defendant Joseph Wayne Waters will be returned to the custody of the State of Montana.

DATED this 12<sup>th</sup> day of October, 2018.



DANA L. CHRISTENSEN  
Chief Judge, United States District Court